

REMARKS

Rejection of Claims under 35 U.S.C. § 103

Claims 1-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,477,543 by Huang (Huang) in view of U. S. Patent No. 6,996,634 by Herrod et al. (Herrod). Claims 3-6, 8-9, 11-16, 18-19, 21-26, 28-29, 31, and 33-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Herrod, and further in view of Boothby et al., U.S. Patent Application No. 2001/0005849 (Boothby). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

As noted, the Office Action rejected Claim 1 under 35 U.S.C. §103 as being unpatentable over Huang in view of Herrod. Specifically, the Office Action asserts that all limitations of independent Claim 1 are found in Huang except for "comparing the second information stored on the handheld device that is indicative of a version of the application on the handheld device, and updating the application on the handheld device using metadata received from the server if the second information does not compare equally with the information that is indicative of the version of application on the handheld device." The Office Action then asserts that Herrod teaches these missing limitations in column 7, lines 13-37 and column 5, lines 15-54. Applicants respectfully traverse this assertion.

Taking the cited sections in reverse order, column 5, lines 15-54 does not teach or fairly suggest updating an application on a handheld device. Rather, this cited section describes steps 60-64 of Figure 2, which is a flow diagram of a method for using an operating system. At step 60, the operating system chooses one or more applications to send data. At step 62, the data may

be synchronized. The use of the term synchronization in the cited section of Herrod is distinct from the idea of synchronizing first and second databases so that they contain identical data. Herrod describes synchronization as something that “may be necessary in the case where two pieces of data destined for the same application arrive in the operating system at the same time... data may be synchronized such that only one type of data is sent to the application at a time.” At step 64, the operating system sends the data to the first of the applications chosen, receives data from the first application (if necessary), and repeats this for each application until reaching the final application. Step 64 is depicted in Figure 3 of Herrod, as operating system 102 passing input data 100 to data format translator 104, which then passes it back to operating system 102. One of ordinary skill in the art understands the foregoing does not relate to updating an application on the handheld device. Indeed, Figure 3 is described as a block diagram illustrating the movement of input data through an operating system into applications. *See*, Herrod, column 3, lines 29-31. At the very least, nothing within the cited sections of Herrod indicates that the operating system 102 and applications 104 and 108 are contained in a handheld device, such as the handheld devices 252 shown in Figure 7.

Column 7, lines 13-37 of Herrod makes mention of the handheld devices 252 shown in Figure 7. In this cited section, Herrod describes “on a day when inventory needs to be taken, a supervisor may use the main computer 250 to configure all of the handheld computers 252 on the network to contain only one[sic] those applications and data conversion programs required for inventory.” This cited section does not teach updating an application on handheld computers 252. Rather, this section of Herrod describes loading the handheld computers 252 with one or more applications and data conversion programs needed to perform a particular task (e.g., taking inventory). Loading a handheld computer with an application to perform a task is an act that is substantially different than updating an application on a handheld computer.

Column 7, lines 13-37 also describes “Through this wireless network, it is possible to update or alter the operating systems of the computer instantaneously, reconfiguring the computer.” This section of Herrod is vague at best since it does not describe which operating system is being updated or altered, whereas Claim 1 clearly requires updating the application on the handheld device. More importantly, this cited section does not describe updating the application on the handheld device using metadata received from the server if the second information does not compare equally with the information that is indicative of the version of the application on the handheld device as required by independent Claim 1. Lastly, Claim 1 has been amended to indicate that the application is updated with metadata that comprises application definitions. This new limitation is clearly not taught or fairly suggested in column 7, lines 13-37 of Herrod. As such, Applicants assert that independent Claim 1, as amended, is patentably distinguishable over the cited sections of Huang and Herrod.

Independent Claim 11 was rejected using the same rationale that was used for rejecting independent Claim 1. Independent Claim 11 has been amended to include the limitations added to independent Claim 1. Applicants assert that independent Claim 11 is patentably distinguishable over the cited sections of Huang and Herrod for the same or similar reasons that independent Claim 1 is patentably distinguishable.

Independent Claims 21 and 31 stand rejected under 35 U.S.C. §103 as being unpatentable over Huang in view of Herrod, and further in view of Boothby. Independent Claim 21 recites “determining whether the handheld device has sufficient unused memory to store the filter data.” The Office Action ignores this limitation in rejecting independent Claim 21 under 35 U.S.C. §103. As such, the Office Action has failed to provide a *prima facie* basis for rejecting independent Claim 21. Independent Claim 31 recites “a device configured to determine whether the handheld device has sufficient unused memory to store the data provided by the server.”

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The Office Action has ignored this limitation in rejecting independent Claim 31. As such, Applicants assert that the Office Action has failed to provide a *prima facie* basis for rejecting independent Claim 31.

The remaining claims depend directly or indirectly from independent Claims 1, 11, 21, and 31. It follows that the remaining claims are patentably distinguishable over the cited sections of the cited reference.

CONCLUSION

Applicants submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,



Eric A. Stephenson
Attorney for Applicants
Reg. No. 38,321
Telephone: (512) 439-5093
Facsimile: (512) 439-5099